

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAFAEL LORA,

Plaintiff,

-against-

JFK INTERNATIONAL AIRPORT U.S.
CUSTOMS AND BORDER
PROTECTIONS OFFICE CHIEF
COUNSEL OR DESIGNEE,

Defendant.

1:20-CV-3285 (CM)

TRANSFER ORDER

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff Rafael Lora, a federal pretrial detainee who is presently held in the Lackawanna County Prison, in Scranton, Pennsylvania, brings this *pro se* action under the Freedom of Information Act (“FOIA”). He seeks records from United States Customs and Border Protection (“CBP”) concerning a package that was mailed from the Dominican Republic and addressed to his residence in Hazleton, Pennsylvania. Plaintiff alleges that CBP seized the package at the John F. Kennedy International Airport (“JFK Airport”), in Jamaica, Queens County, New York. For the following reasons, the Court transfers this action to the United States District Court for the Middle District of Pennsylvania.

FOIA claims must be brought in “the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia. . . .” 5 U.S.C. § 552(a)(4)(B).

Plaintiff alleges that he resides in Hazleton, Luzerne County, Pennsylvania. He does not state where his principal place of business is. He alleges that the records he seeks from CBP concern a package addressed to his residence that was mailed from the Dominican Republic, and

that CBP seized at JFK Airport. JFK Airport, however, is not in this judicial district.¹ It therefore does not appear that there is any basis for venue in this district.

Luzerne County, where Plaintiff resides, is located in the Middle District of Pennsylvania.² 28 U.S.C. § 118(b). Thus, venue lies in the United States District Court for the Middle District of Pennsylvania. *See* § 552(a)(4)(B). The Court therefore transfers this action to that court. 28 U.S.C. § 1406(a).

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. The Clerk of Court is further directed to transfer this action to the United States District Court for the Middle District of Pennsylvania. Whether Plaintiff should be permitted to proceed further without prepayment of fees is a determination to be made by the transferee court. A summons shall not issue from this Court. This order closes this case.³

¹ JFK Airport is located in Queens County, in the Eastern District of New York. 28 U.S.C. § 112(c).

² Plaintiff mentions that he is being criminally prosecuted. (ECF 2, at 7.) A search of public records reveals that he is being criminally prosecuted in the United States District Court for the Middle District of Pennsylvania. *See United States v. Lora*, 3:16-CR-0091-02 (M.D. Pa.).

³ This is the second time that this Court has had to transfer a FOIA action brought by Plaintiff arising from CBP's seizure of a package at JFK Airport that was addressed to Plaintiff's Hazleton, Pennsylvania, residence. *See Lora v. JFK Int'l Airport U.S. Customs and Border Prot.*, ECF 1:20-CV-2799, 5.

The Court certifies, pursuant to 28 U.S.C § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: April 29, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge